

IN THE COMMON PLEAS COURT OF GREENE COUNTY, OHIO
CIVIL DIVISION

VEDA ECKHART, Individually
And as the Executor of the Estate of
Betty O. Sweeney
1725 Humphrey Ave.
Dayton, OH 45410

Plaintiff

v.

HOSPITALITY HEALTHCARE, LLC
aka HILLSTONE HEALTHCARE,
INC. dba Hospitality Center for
Rehabilitation and Healing
c/o ACFB Incorporated, Statutory Agent
200 Public Square, Suite 2300
Cleveland, OH 44114

Defendant

CASE NO.

2018 CV 0270

JUDGE

JUDGE

BUCKWALTER

**COMPLAINT FOR WRONGFUL
DEATH AND SURVIVAL CLAIM**

AFFIDAVIT OF MERIT ATTACHED

PARTIES

1. Plaintiff, Veda Eckhart, is the duly appointed Executor of the Estate of Betty O. Sweeney, Deceased, in the Greene County Probate Court, Case No. 45898E. Decedent, Betty O. Sweeney, was a resident of Greene County, Ohio. Plaintiff Veda Eckhart brings this action as an individual and as personal representative of the Estate of Betty O. Sweeney, Deceased, for the benefit of the Estate and next-of-kin of the decedent. A copy of the Letters of Authority is attached to this Complaint and marked as exhibit "A."
2. Defendant Hospitality Healthcare LLC, aka Hillstone Healthcare, Inc dba Hospitality Center for Rehabilitation and Healing (hereinafter Defendant Hospitality Healthcare) is a duly licensed and accredited nursing home doing business in the State of Ohio, County of Greene, that held and holds itself out to the public to provide nursing home care. Upon information and belief, Defendant Hospitality Healthcare is corporation, registered to do business in the State of Ohio, which at all times relevant hereto was engaged in providing

nursing home care, by and through its agents and/or employees. At all times material hereto, its agents and/or employees were acting within the course and scope of their agency and/or employment with Defendant Hospitality Healthcare.

FIRST CLAIM FOR RELIEF

3. Plaintiff incorporates by reference those allegations contained in the preceding paragraphs as though specifically restated herein.
4. On or about January 16, 2016, Plaintiff's Decedent, Betty O. Sweeney, placed herself in the professional care of Defendants and contracted with Defendants for appropriate professional attention and treatment. Betty O. Sweeney was a resident at Defendant Hospitality Healthcare nursing home.
5. Defendants fell below the accepted standards of care in providing appropriate attention and treatment to Betty O. Sweeney. Due to Betty's severely impaired cognition she was totally dependent on to staff members for transfers. The physicians orders revealed that the Defendants agents and employees were only to transfer Betty using a mechanical lift with two staff members.
6. On or about September 22, 2018, agents of Defendant, while in the course and scope of their employment and while in the process of moving Betty O. Sweeney, negligently and in direct violation of orders attempted to transfer Betty with one the staff member only not using a mechanical lift. This negligent care resulted in Betty being dropped to the floor which directly resulted in serious injury including but not limited to fracturing her leg. As a direct result of this fracture, Betty O. Sweeney's health declined quickly and she died on November 29, 2018 as a direct and proximate result of the Defendant's negligence. The actions of Defendant and/or its agents deviated from the standard of care and were a direct and proximate cause of Betty O. Sweeney's injuries and death.
7. The Ohio Department of Health and Human Services investigated the Defendant's negligence in their single staff member transfer without a mechanical lift. The Ohio Department of Health and Human Services found multiple deficiencies in the care provided to Betty. The staff member who bent Betty's leg backwards during the transfer fracturing her leg did not report the negligence to the administrators until the next day. Administrators did not self-report to the state as they are required to do by law. It was determined that 18 of the STNAs and all of the license nursing staff were not provided with training in the use of a mechanical lift. The Ohio Department of Health and Human Services and the US Center for Medicare and Medicaid Services has determined that the Defendant has still not come into compliance despite inspectors returning to the facility November 5 2018, November 29 2018 and February 6, 2019.

8. As a direct and proximate result of Defendant's negligent acts and omissions, Betty O. Sweeney sustained injury, endured severe pain, suffering and mental anguish for a period of time prior to her death on November 29, 2018.
9. Plaintiff further states that as a direct and proximate result of Defendant's actions as set forth above, the next-of-kin of Betty O. Sweeney have suffered pecuniary loss and non-pecuniary loss including, but not necessarily limited to, loss of support, services, care, assistance, protection, guidance, education, consortium, mental anguish, emotional distress and loss of enjoyment of life and further will, in the future, suffer pecuniary loss and non-pecuniary loss including, but not necessarily limited to, loss of support, services care, assistance, protection, guidance, education, consortium, mental anguish, emotional distress and loss of enjoyment of life.

SECOND CLAIM FOR RELIEF

10. Plaintiff incorporates by reference those allegations contained in the preceding paragraphs as though specifically restated herein.
11. Further, as a direct and proximate result of said Defendant's actions, Plaintiff and the other next-of-kin of Betty O. Sweeney have suffered damages and are entitled to recover any and all damages authorized by Ohio's wrongful death statutes, O.R.C. § 2125.01, et seq., for the following: (a) mental anguish, grief, and worry incurred by the next-of-kin of Betty O. Sweeney, Deceased, pursuant to the doctrine in *Ramish v. Central Ohio Emergency Services, Inc.*, 64 Ohio St.2d 97 (1992); and (b) loss of services, society, consortium, companionship, care, assistance, and other factors enumerated in Ohio's wrongful death statutes, incurred by Plaintiff and other next-of-kin.
12. As a further direct and proximate result of Defendant's actions Plaintiff and/or Plaintiff's Decedent, Betty O. Sweeney, incurred hospital, medical and related expenses and reasonable burial and funeral expenses.

WHEREFORE, Plaintiff Veda Eckhart, individually and as Executor of the Estate of Betty O. Sweeney, demands judgment against Defendant for damages in an amount in excess of Twenty-five Thousand Dollars (\$25,000), compensatory damages, punitive damages, reasonable attorneys' fees, interest as provided by law, the costs of this action, and any other relief this court deems necessary and just.

Respectfully submitted:



/s/ Stephen P. O'Keefe

Stephen P. O'Keefe (0065066)

sokeefe@gomedmalohio.com

THE O'KEEFE FIRM

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Dayton, Ohio 45459

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Attorney for Plaintiff

MAR 25 2019

PROBATE COURT OF GREENE COUNTY, OHIO

THOMAS M. O'DIAM, JUDGE

THOMAS M. O'DIAM
JUDGE PROBATE DIVISION
COURT OF COMMON PLEAS
DECEASED

ESTATE OF Betty O Sweeney

CASE NO. 45898E

ENTRY APPOINTING FIDUCIARY; LETTERS OF AUTHORITY

[For Executors and all Administrators]

Name and Title of Fiduciary Veda Eckhart

On hearing in open court the application of the above fiduciary for authority to administer decedent's estate, the court finds that:

Decedent died [check one of the following] ☐ testate ☒ intestate on November 29 2018

domiciled in Greene County, Ohio

[Check one of the following] ☐ Bond is dispensed with by the will ☒ Bond is dispensed with by Court ☐ Applicant has executed and filed an appropriate bond, which is approved by the court; and

Applicant is a suitable and competent person to execute the trust.

The court therefore appoints applicant as such fiduciary, with the power conferred by law to fully administer decedent's estate. This entry of appointment constitutes the fiduciary's letters of authority.

March 25, 2019
Date

Th. M. O'Diam

Thomas M. O'Diam, Probate Judge

CERTIFICATE OF APPOINTMENT AND INCUMBENCY

The above document is a true copy of the original kept by me as custodian of this Court. It constitutes the appointment and letters of authority of the named fiduciary, who is qualified and acting in such capacity.

(Seal)

By:

Thomas M. O'Diam, Probate Judge

Laura S. B...
Deputy Clerk

3-25-2019
Date

AFFIDAVIT OF MERIT

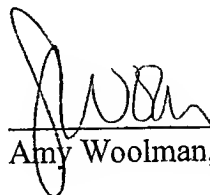
STATE OF INDIANA,

COUNTY OF St. Joseph, SS:

Now comes Affiant, Amy Woolman, BSN, RN-BC, and being first duly cautioned and sworn according to law, deposes and states:

1. I am a registered nurse licensed in the State of Indiana.
2. I spend more than 50% of my professional time actively practicing and/or participating in academic nursing.
3. I have reviewed the relevant medical records of Betty Sweeney including the t the Greene Memorial Hospital records, Hospitality Center for Rehabilitation and Healing records, Ohio Department of Health and Human Services statement of deficiencies.
4. Based upon my clinical training, experience, research and education as a nurse and further based upon my review of the medical records and statement of deficiencies, I believe to a reasonable nursing probability that the care rendered to Betty Sweeney was below acceptable standards of care and directly caused her injury and death.

FUTHER AFFIANT SAYETH NAUGHT.

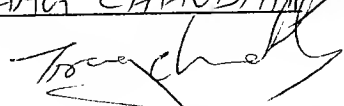


Amy Woolman, BSN, RN-BC

STATE OF INDIANA,
COUNTY OF St. Joseph, SS:

Sworn to before me, a Notary Public, and subscribed in my presence
by said Amy Woolman, BSN, RN-BC on this 29th day of March, 2019.



TIRANG CHAUDHARY
Notary Public

03/29/2019